

Proposed Trailer Bill Language
Medi-Cal Reimbursements for Acute Care Inmates

Section 5072 of the Penal Code is amended to read:

5072. (a) Notwithstanding any other provision of law, the State **California** Department of Corrections and Rehabilitation and the State Department of Health Care Services may develop a process to maximize federal financial participation for the provision of **acute** inpatient hospital services rendered to individuals who, but for their institutional status as inmates, are otherwise eligible for Medi-Cal pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code or for the Coverage Expansion and Enrollment Demonstration (CEED) Project **Low Income Health Program (LIHP)** pursuant to Part 3.6 (commencing with Section 15909) of Division 9 of the Welfare and Institutions Code.

~~—(b) (1) A CEED project shall reimburse a provider for the delivery of inpatient hospital services pursuant to this section rendered to an inmate whose county of last legal residence participates in the CEED project.~~

~~—(2) The State Department of Health Care Services may at its discretion require a CEED Project, as a condition of participation as a CEED project, to enroll an eligible inmate whose county of last legal residence participates in that CEED project.~~

(b) Federal reimbursement for acute inpatient hospital services for inmates enrolled in Medi-Cal shall occur through the State Department of Health Care Services and federal reimbursement for acute inpatient hospital services for inmates not enrolled in Medi-Cal but who are eligible for a LIHP shall occur through a county LIHP.

(c) (1) The Secretary of the **California** Department of Corrections and Rehabilitation, in conjunction with the State Department of Health Care Services, shall develop a process to compensate CEED projects for the nonfederal share of the payment they expend for both the **claim federal financial participation and to reimburse the California Department of Corrections and Rehabilitation for the federal financial participation share for the allowable Medicaid cost** provision of **acute** inpatient hospital services rendered to inmates according to this section and for any administrative costs incurred in support of those services.

(2) Under the process described in paragraph (1), CEED projects shall be held harmless for any disallowance or deferral when federal action is taken due to the implementation of the state's policies, directions, or requirements for the provision of services under this section. **Public or community hospitals shall invoice the California Department of Corrections and Rehabilitation to obtain reimbursement for acute inpatient hospital services in accordance with contracted rates of reimbursement, or if no contract is in place, the rates pursuant to Section 5023.5. The California Department of Corrections and Rehabilitation shall reimburse a public or community hospital for the delivery of acute inpatient hospital services rendered to an inmate pursuant to this section. For individuals eligible for Medi-Cal pursuant to this section, the California Department of Corrections and Rehabilitation shall submit a monthly invoice to the State Department of Health Care Services for claiming federal financial participation at the Medi-Cal rate for**

acute inpatient hospital services. For enrollees in the LIHP, the California Department of Corrections and Rehabilitation shall submit a monthly invoice to the county of last legal residence pursuant to Section 14053.7 of the Welfare and Institutions Code. The county shall submit the invoice to the State Department of Health Care Services for claiming federal financial participation for acute inpatient hospital services for individuals made eligible pursuant to this section, to Section 14053.7 of the Welfare and Institutions Code, and to the process developed in paragraph (b). The State Department of Health Care Services shall claim federal financial participation for eligible services for LIHP enrolled inmates at the rate paid by the California Department of Corrections and Rehabilitation. The State Department of Health Care Services and counties shall remit funds received for federal financial participation to the California Department of Corrections and Rehabilitation for allowable costs incurred as a result of delivering acute inpatient hospital services allowable under this section.

(3) Under the process described in paragraph (1), CEED projects **The county LIHPs** shall not experience any additional net expenditures of county funds due to the provision of services under this section.

(4) Under the process described in paragraph (1), payments made by CEED projects to providers for the delivery of hospital inpatient services under this section shall be based upon the rate of reimbursement that the department paid prior to the enactment of this section, as adjusted under state law or department contract. **The California Department of Corrections and Rehabilitation shall reimburse the State Department of Health Care Services and counties for administrative costs that are not reimbursed by the federal government.**

(5) As part of the process described in paragraph (1), the department shall compensate a CEED project, in the form of a direct grant, for uncompensated, allowable costs incurred as a result of delivering services under this section, including hospital inpatient services rendered to an inmate by an out-of-network provider. **The California Department of Corrections and Rehabilitation shall reimburse the State Department of Health Care Services for any disallowance of federal financial participation that is required to be returned to the Centers for Medicare and Medicaid Services for any litigation costs incurred due to the implementation of this section.**

(6) **(d) (1)** The state shall indemnify and hold harmless participating entities that operate CEED projects **a LIHP**, including all counties, and all counties that operate in a consortium that participates as a CEED project **LIHP**, against any and all losses, including, but not limited to, claims, demands, liabilities, court costs, judgments, or obligations, due to the implementation of this section as directed by the secretary and the State Department of Health Care Services.

(2) The State Department of Health Care Services may at its discretion require a county, as a condition of participation as a LIHP, to enroll an eligible inmate into its LIHP if the county is the inmate's county of last legal residence.

(3) The county LIHPs shall be held harmless for any disallowance or deferral if federal action is taken due to the implementation of this section in accord with the state's policies, directions and requirements.

(e) (1) The California Department of Corrections and Rehabilitation, in conjunction with the State Department of Health Care Services, shall develop a process to facilitate eligibility determinations for individuals who may be eligible for Medi-Cal or a LIHP pursuant to this section and Section 14053.7 of the Welfare and Institutions Code.

(2) The California Department of Corrections and Rehabilitation shall assist inmates in completing either the Medi-Cal or LIHP application as appropriate and shall forward that application to the State Department of Health Care Services for processing.

(3) In the event that an inmate does not have the capacity to sign this application for either Medi-Cal or the LIHP, the Chief Deputy, or his or her designee, may sign an application on behalf of the incapacitated inmate. Notwithstanding any other state law, and only to the extent that federal law allows and federal financial participation is available, for the limited purpose of implementing this section, the department or its designee is authorized to act on behalf of an inmate for purposes of applying for or redeterminations of Medi-Cal or LIHP eligibility.

~~(e)~~ **(f)** (1) Nothing in this section shall be interpreted to restrict or limit the eligibility or alter county responsibility for payment of any service delivered to a parolee who has been released from detention or incarceration and now resides in a county that participates in the CEED-project **LIHP**. If otherwise eligible for the county's CEED-project **LIHP**, the CEED-project **LIHP** shall enroll the parolee.

(2) Notwithstanding paragraph (1), at the option of the state, for enrolled parolees who have been released from detention or incarceration and now reside in a county that participates in a CEED-project **LIHP**, the CEED-project **LIHP** shall reimburse providers for the delivery of services which are otherwise the responsibility of the state to provide. Payment for these medical services, including both the state and federal shares of reimbursement, shall be included as part of the reimbursement process described in paragraph (1) of subdivision (c).

(3) Enrollment of individuals in a CEED-project **LIHP** under this subdivision shall be subject to any enrollment limitations described in subdivision (g) of Section 15910 of the Welfare and Institutions Code.

~~(e)~~ **(g)** The department shall be responsible to the CEED-project **LIHP** for the nonfederal share of any reimbursement made for the provision of **acute** inpatient hospital services rendered to inmates pursuant to this section who are eligible for and enrolled in that CEED-project **LIHP**.

~~(f)~~ **(h)** Except as otherwise provided by paragraph (5) of subdivision (c), and notwithstanding any other provision of law, the inpatient hospital services eligible for reimbursement under **Reimbursement pursuant to** this section shall be limited to only those **acute inpatient hospital** services **for** which are subject to funding with federal financial participation pursuant to Title XIX of the Social Security Act **is allowed**.

~~(g)~~ **(i)** This section shall have no force or effect if there is a final judicial determination made by any state or federal court that is not appealed, or by a court of appellate

jurisdiction that is not further appealed, in any action by any party, or a final determination by the administrator of the federal Centers for Medicare and Medicaid Services, that limits or affects the department's authority to select the hospitals used to provide inpatient hospital services to inmates.

~~(h)~~ **(j)** It is the intent of the Legislature that the implementation of this section will result in state General Fund savings for the funding of **acute** inpatient hospital services and **provided to inmates along with** any related administrative costs to the inmate population.

~~(i)~~ **(k)** Any agreements entered into ~~between the department and any CEED project~~ **under this section for Medi-Cal or a LIHP** to provide for reimbursement of **acute inpatient hospital** services and administrative expenditures as described in subdivision (c) shall not be subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

~~(j)~~ **(l)** This section shall be implemented in a manner that is consistent with federal Medicaid law and regulations. The Director of the State Department of Health Care Services shall seek any federal approvals necessary for the implementation of this section. This section shall be implemented only if **when** and to the extent that any necessary federal approval is obtained, and only to the extent that existing levels of federal financial participation are not otherwise jeopardized.

~~(k)~~ **(m)** To the extent that the Director of the State Department of Health Care Services determines that existing levels of federal financial participation are jeopardized, this section shall no longer be implemented.

~~(l)~~ **(n)** Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the State Department of Health Care Services may, without taking any further regulatory action, implement this section by means of all-county letters, provider bulletins, facility letters, or similar instructions.

~~(m)~~ **(o)** For purposes of this section, the following terms have the following meanings:

(1) The term "county of last legal residence" means the county in which the inmate resided at the time of arrest that resulted in conviction and incarceration in a state prison facility.

(2) The term "inmate" means an adult who is involuntarily residing in a state prison facility operated, administered, or regulated, directly or indirectly, by the department.

(3) During the existence of the receivership established in United States District Court for the Northern District of California, Case No. CO1-1351 TEH, Plata v. Schwarzenegger, references in this section to the "secretary" shall mean the receiver appointed in that action, who shall implement portions of this section that would otherwise be within the secretary's responsibility.

Section 14053.7 of the Welfare and Institutions Code is amended to read:

14053.7. (a) Notwithstanding any other provision of law, and only to the extent that federal financial participation is available, the department may provide Medi-Cal eligibility

and reimbursement for acute inpatient hospital services available under this chapter in accordance with Section 5072 of the Penal **Code**.

(b) The department may disenroll inmates made eligible for services under this section or in accordance with Section 5072 of the Penal **Code** from Medi-Cal managed care health plans, and may exempt inmates from enrollment into new or existing plans.

(c) Except as provided for in paragraph (2) of subdivision (e), the Department of Corrections and Rehabilitation shall be responsible for the nonfederal share of any reimbursement made for the provision of acute inpatient hospital services rendered to inmates who are eligible for and enrolled in a ~~CEED project~~ LIHP and receive services pursuant to this section and Section 5072 of the Penal **Code**.

(d) (1) Notwithstanding any other provision of law, including Section 11050, the ~~state department, as the single state agency,~~ may make eligibility determinations and redeterminations for inmates in accord with this section and Section 5072 of the Penal **Code**.

(2) The department may enroll and disenroll inmates eligible for acute inpatient hospital services under this section or in accord with Section 5072 of the Penal **Code** in Medi-Cal or in the ~~CEED project~~ LIHP in which the inmate's county of last legal residence participates.

(e) (1) In accordance with the requirements and conditions set forth under this section and Section 5072 of the Penal **Code**, the county may seek from the Medi-Cal program or from the responsible ~~CEED project~~ LIHP in which the county participates, reimbursement for the provision of inpatient hospital services to adults involuntarily detained or incarcerated in county facilities.

(2) (A) To the extent that a county seeks reimbursement for the provision of acute inpatient hospital services to adults who are involuntarily detained or incarcerated in county facilities and who are otherwise eligible for Medi-Cal pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9, the county shall be responsible for the nonfederal share of the reimbursement.

(B) To the extent that a county seeks reimbursement for the provision of acute inpatient hospital services to adults who are involuntarily detained or incarcerated in county facilities and who are otherwise eligible for and enrolled in the ~~CEED project~~ LIHP in which the county participates, the ~~CEED project~~ LIHP shall be responsible for the nonfederal share of the reimbursement.

(f) For the limited purpose of implementing this section and Section 5072 of the Penal Code, the department shall recognize that the California Department of Corrections and Rehabilitation may act on behalf of the inmate.

(f) ~~(g)~~ Except as otherwise provided in subdivision (c) of Section 5072 of the Penal **Code**, the inpatient hospital services eligible for reimbursement under Reimbursement pursuant to this section shall be limited to only those services for which are subject to funding with federal financial participation pursuant to Title XIX of the federal Social Security Act is allowed.

~~(g)~~ **(h)** This section shall be implemented only if and to the extent that existing levels of federal financial participation are not otherwise jeopardized. To the extent that the department determines that existing levels of federal financial participation are jeopardized, this section shall no longer be implemented.

~~(h)~~ **(i)** The department shall seek any necessary federal approvals for the implementation of this section. This section shall be implemented only if and to the extent that any necessary federal approvals are obtained.

~~(i)~~ **(j)** This section shall have no force ~~of~~ **or** effect if there is a final judicial determination made by any state or federal court that is not appealed, or by a court of appellate jurisdiction that is not further appealed, in any action by any party, or a final determination by the administrator of the federal Centers for Medicare and Medicaid Services, that disallows, defers, or alters the implementation of this section or in accord with Section 5072 of the Penal **Code**, including the rate methodology or payment process established by the department that limits or affects the department's authority to select the hospitals used to provide **acute** inpatient hospital services to inmates.

~~(j)~~ **(k)** It is the intent of the Legislature that the implementation of this section will result in state General Fund savings for the funding of **acute** inpatient hospital services **provided to inmates** and any related administrative costs ~~to the inmate population~~.

~~(k)~~ **(l)** Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government **Code**, the department may, without taking any further regulatory action, implement this section by means of all-county letters or similar instructions.

~~(l)~~ **(m)** For purposes of this section, the following terms have the following meanings:

- (1) The term "county of last legal residence" means the county in which the inmate resided at the time of arrest that resulted in conviction and incarceration in a state prison facility.
- (2) The term "inmate" means an adult who is involuntarily residing in a state prison facility operated, administered or regulated, directly or indirectly, by the Department of Corrections and Rehabilitation.